

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF
WASHINGTON AT TACOMA

JEROME LENORDA POWELL II,

Plaintiff,

v.

RITE AID PHARMACY,

Defendants.

Case No. C22-1324 MJP-TLF

REPORT AND
RECOMMENDATION

On October 3, 2022, plaintiff filed a Motion for Leave to Proceed In Forma Pauperis (Dkt. 4), with respect to his proposed civil rights complaint (Dkt. 1). On October 25, 2022, the Court ordered plaintiff to show cause why the complaint should not be dismissed for failure to state a claim. Dkt. 5. The Court informed plaintiff that he failed to provide facts to show how each defendant's alleged acts or omissions caused a violation of his right to be free from unreasonable force under the Fourth and Fourteenth Amendments. *Id.* at 4.

Given the identified deficiencies in the proposed complaint, the Court did not grant Plaintiff's IFP application. Plaintiff was given until November 11, 2022, to show cause why his complaint should not be dismissed or file an amended complaint. Plaintiff filed a notice of change of address on November 17, 2022. Dkt. 7. In light of this, the Court directed the Clerk to resend the order to show cause to plaintiff's current address. Dkt. 8. Plaintiff was given a new deadline of December 12, 2022, to show cause why his

1 complaint should not be dismissed or file an amended complaint. Plaintiff has not
2 responded to the Court's order to show cause. Accordingly, the undersigned
3 recommends that the Court DENY plaintiff's IFP application and dismiss his action
4 without prejudice for failure to prosecute.

5 A plaintiff is not entitled to submit written objections to the Magistrate Judge's
6 report and recommendation that IFP status should be denied. *Minetti v. Port of*
7 *Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998)(per curiam). Denial of a motion to
8 proceed IFP is an immediately appealable order. *Tripati v. Rison*, 847 F.2d 548,
9 548-549 (9th Cir. 1988). Under *O'Neal v. Price*, 531 F.3d 1146, 1151-1156 (9th Cir.
10 2008), the complaint should be dismissed without prejudice.

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12 Dated this 19th day of December, 2022.

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Theresa L. Fricke
16 United States Magistrate Judge
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